

BUSINESS LAW NEWS

THE STATE BAR OF CALIFORNIA • SPECIAL EDITION • SEPTEMBER 5, 2003

WILLIAM M. BURKE RECEIVES BUSINESS LAW SECTION'S LIFETIME ACHIEVEMENT AWARD

By ROLAND E. BRANDEL

The Business Law Section awarded its Lifetime Achievement Award for 2003 to William M. Burke at the Annual Meeting of the State Bar of California in Anaheim.

The award is given each year to a member of the State Bar who has made significant contributions to the Section and to business law generally and who has provided extraordinary services to the Bar over an extended period. Past recipients have been: Marshall L. Small; George R. Richter; William D. Warren; R. Bradbury Clark; Richard Jennings; and Harold Marsh, Jr.

In the past quarter-century, few individuals have had as much influence on the development of legal principles that govern the debt financing of business as has William M. Burke. For more than three decades, he practiced law at a high level in this field. He nurtured, led, and even, at times, created the organizational structures that supported law reform and the education of practicing lawyers. He wrote prolifically, handled seminal cases on appeal, and was instrumental in several legislative law reform efforts.

Bill Burke was born in Washington, D.C., but is close to being a native Californian. He has lived in California from age five and received all his education in the state. Bill was awarded his B.S. in Business and Economics from California State University at Northridge in 1964 and his law degree from Stanford Law School in 1967, where he served on the Stanford Law Review. After graduating, he joined the Sheppard, Mullin, Richter & Hampton firm in Los Angeles. He had the good fortune to have George Richter, another dean of the field of commercial finance law, as a mentor. It is probably the good fortune of that field of law that more than a little of George Richter's concept of a professional's duty of public service to the law was shared by Bill. In that long-term dedication, Bill Burke has excelled as have few others.

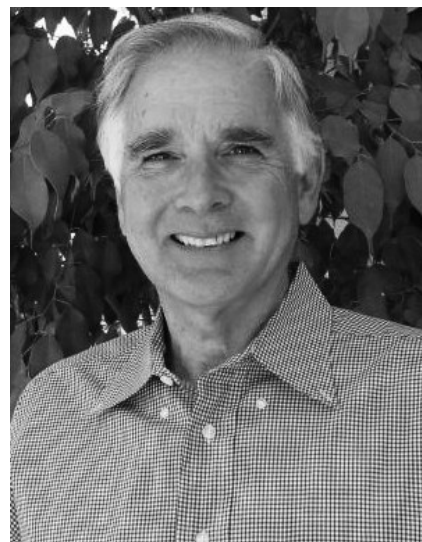
In 1986, Bill joined Sherman & Sterling, with which he practiced until 2002. At various times, he was officed in such far-flung locations as New York, Hong Kong and Tokyo as well, of course, as Los Angeles and Newport Beach. However, even living thousands of miles from the law reform work for which he is so well respected, he managed to contribute significantly.

Bill made his major mark on the substance of the statutory laws in his field through his leadership roles in both the American

Law Institute and the National Conference of Commissioners on Uniform State Laws (NCCUSL). Bill serves on the governing Council of the American Law Institute and has been a member of the NCCUSL's Executive Committee and the permanent Editorial Board of the Uniform Commercial Code. As part of his 18 years of

service on the California Commission, he led the effort to secure passage by the California legislature of all of the major commercial law projects of the NCCUSL, including Articles 2A, 3, 4, 4A, 5, 6, 8 & 9 and the UFTA. For 11 years, he made major contributions working on the turn of the century effort to modernize Article 9. That effort began in 1990 with Bill serving as the Chair of a study committee on the issues, continued with his service for five years as Chair of the ALI/NCCUSL Drafting Committee on Article 9, and concluded in 2001 with a remarkable, and successful, 2-1/2 year effort to secure passage in all states in the U.S. of the highly complex statute. That was a process, it should be noted, in which consideration of a new Article 9 began with advocacy of a number of disparate views, and strongly held views at that, on what principles would best serve our society.

He brought the same talent and dedication to leadership roles in organizations that less directly served as stewards of the law in his field, but nevertheless served important functions with regard to law reform and in improving the caliber of the practice of those attorneys working in the field. Mr. Burke has served as the President of the Board of Governors of the Financial Lawyers Conference, as a member of the governing Council of the Section of Business Law of the American Bar Association, and as Chair of one of the largest and most active of that Section's committees, the Uniform Commercial



WILLIAM M. BURKE

Code Committee. In the mid-1980s, he was instrumental in creating a new committee of that Section, the Committee on Commercial Financial Services, and served as its first Chair. That committee, now numbering over 1,500 members, still bears the imprint of Bill's vision and organizational skills. Last, but scarcely least, Bill served in 1980-81 as one of the early Chairs of the Executive Committee of the California State Bar's Business Law Section.

Bill has been a prolific writer in the fields in which he has worked, producing treatises on *Lender's Liability* and *Article 9 Foreclosure*, and three handbooks on *Securitization*, *Cross-border Securitization* and *Cross-border Securitization in Japan*. He also authored several articles published in the ABA's *Business Lawyer* and other law reviews on Article 9 issues and on the then evolving theories on the relationship between state usury laws and federal principles.

His client work has been no less interesting, grand in scale, or innovative than his multiple roles as a steward of the law. He worked his magic on a global scale, engaging in complex leveraged finance transactions, structured finance transactions, project development, and reorganization and bankruptcy for some of the largest financing organizations in the world, and for governmental authorities, primarily in Asia, on massive public works projects.

In an unusual adjunct to his transactions practice, in an era of functional and subject matter specialization, Bill also argued successfully before the United States Supreme Court, the Ninth Circuit, the California Supreme Court, and the California Court of Appeals in cases that were frequently seminal in their impact. He, of course, tried to make sure that the judicial system interpreted the laws with which he intimately worked in a way that would assist his clients in reaching results they sought. But he also worked to insure that the courts would do so through decisions that were fully informed. He contributed here through meticulous preparation of comprehensive briefs for which he was responsible in his appellate litigation practice.

His extraordinary achievements have not gone unnoticed. The Business Law Section is not the first, but the fourth major organization to formally recognize Bill Burke for his major contributions. The Financial Lawyers' Conference, the California Bankers Association, and the American College of Commercial Finance Lawyers, have all given him formal awards.

If you had not the good fortune to know Bill Burke personally, you might conclude that, based on achievement, he has a Type A personality with a highly successful focus that emphasized individual professional achievement. Not true. Bill is someone who has been supportive of the aspirations of scores of lawyers and organizations with which he has worked over three decades. He has repeatedly taken time to reach out and nurture yet another idea, another organization, another group of people who needed to be motivated

and assisted. Bill has always led by example. His followers are legion and have scaled great heights in the profession.

Allusions to scaling heights are not just figurative in Bill's case. He has always enjoyed the outdoors and has tested himself regularly over the years in activities ranging from rowing sculls, to revving up his Harley for a cross-country jaunt, to mountain climbing. The latter has taken him up numerous peaks in North America, including Mt. McKinley and Mt. Rainier, and later this year will take him up Aconcagua in South America. How does any practicing lawyer, much less a practicing lawyer with a penchant for embracing the entire field in which he practices in all of its professional manifestations, and in doing so, commits to massive non-billable hours, find time for mountain climbing?

Pre-2003 it is a mystery. But, today part of the answer is that Bill has taken early retirement at age 60. Retirement for Bill Burke has a different meaning, of course, than for most of us. Bill's idea of retirement is serving as the Chief Executive Officer of EDX Corp. (standing for "electronic document exchange"). This company is not unrelated to the legal work Bill had done for three decades. As the role of electronic commerce has become more dominant in transactions of all sorts, Bill identified a need, if financing of commerce was to function efficiently. That need was an electronic "vault" that would provide a facility for electronically transferring legal rights via entries made on electronic documents maintained in the vault, so that electronic substitutes for negotiable instruments and chattel paper could be dealt with in a secure and efficient manner. As so many times before in his career, he saw a critical need and is attempting to fill it.

Time for family life with all this? Why not! One of Bill's major successes has been his marriage of 41 years to his wife, Sharon; and the nurturing of their children, three girls and one boy. Nevertheless, 13 Burke grandchildren have an unusual challenge: not, how do we get Grandpa up from his rocker - but, how do we get him down from mountain tops or off his Harley?

For his past accomplishments, and for his continuing active stewardship of the field of commercial law, the Business Law Section is pleased to honor William M. Burke as the recipient of its Lifetime Achievement Award for 2003. ■

Mr. Brandel is Chair of the Business Law Section's Lifetime Achievement Award Committee, is a former Chair of the Business Law Section's Executive Committee, currently serves as an Advisor to the Executive Committee, and is a partner at the firm of Morrison & Foerster LLP.